



U.S. Department of Justice

*United States Attorney
Eastern District of New York*

JM:SEF
F.#2010R00578

*271 Cadman Plaza East
Brooklyn, New York 11201*

October 5, 2011

By ECF and Hand

The Honorable Sandra L. Townes
United States District Judge
Eastern District of New York
271 Cadman Plaza East
Brooklyn, New York 11201

Re: United States v. Michael Virtuoso
Criminal Docket No. 11-508 (SLT)

Dear Judge Townes:

The government requests permission to file this surreply to correct a misleading factual contention in the defendant's reply memorandum in support of his motion for release on bail pending trial.

The defendant contends that his public identification, by name, of the loansharking victims referenced as John Does in the complaint was justified because those names were previously disclosed by the government pursuant to Fed. R. Crim. P. 16. That contention is misleading. At the government's request, the Honorable Jack B. Weinstein, Senior United States District Court Judge, signed a limited unsealing order permitting the government to comply with its Rule 16 obligations by disclosing to the defense certain Title III recordings and related materials. Those materials, which identify certain of the defendant's victims by name, have never been publicly disclosed and remain otherwise under seal.

For these reasons and the reasons set forth in its prior briefs, the government respectfully requests that the Court direct the Clerk of the Court to remove the defendant's memoranda in support of his motion for bail pending trial from ECF and order defense counsel to refile them only after the victims'

names have been redacted. The government further requests that the defendant's motion for release on bail be denied.

Respectfully submitted,

LORETTA E. LYNCH
United States Attorney

By: /s/
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cc: Joseph DiBenedetto, Esq. (by ECF)
Clerk of Court (SLT) (by ECF)